

BEFORE THE PERSONNEL APPEALS BOARD

STATE OF WASHINGTON

JOSEPH ADAMS	)	Case No. RED-99-0014
JANE BEAVEN	)	Case No. RED-99-0015
SONI BRAZZLE	)	Case No. RED-99-0016
LINETTE BUCHFINK	)	Case No. RED-99-0017
JULIE CARLBERG	)	Case No. RED-99-0018
FRANK COYLE	)	Case No. RED-99-0019
ROBERT CRAMER	)	Case No. RED-99-0020
LISA DIMICO	)	Case No. RED-99-0021
PAMELA ESCH	)	Case No. RED-99-0022
CLIFFORD GRINDLEY	)	Case No. RED-99-0007
MATT HANCOCK JR.	)	Case No. RED-99-0023
MAUREEN HANNA	)	Case No. RED-99-0024
DARCY HILDEBRAND	)	Case No. RED-99-0025
ELIZABETH HOLMES	)	Case No. RED-99-0026
JO KELLY	)	Case No. RED-99-0027
CAROL KOTTWITZ	)	Case No. RED-99-0028
CONNIE LINDSEY	)	Case No. RED-99-0029
JOYCE MANN	)	Case No. RED-99-0030
EDNA MANTHA	)	Case No. RED-99-0031
ANDREA MILLER	)	Case No. RED-99-0032
BONNIE MURRAY	)	Case No. RED-99-0033
LARAE MURRAY	)	Case No. RED-99-0034
CLEO POWELL	)	Case No. RED-99-0035
STELLA RAULSTON	)	Case No. RED-99-0036
MARY JOAN REUTHINGER	)	Case No. RED-99-0037
CHRISTOPHER SCHANZ	)	Case No. RED-99-0038
ELAINE SCHOENROCK	)	Case No. RED-99-0043
SUSAN SKIMMING	)	Case No. RED-99-0039
FRANCES STEWART	)	Case No. RED-99-0044
BOBBI THOMAS	)	Case No. RED-99-0041
JUDITH WALKER	)	Case No. RED-99-0006
TAMARA YARBROUGH,	)	Case No. RED-99-0042

Appellants,

v.

DEPARTMENT OF SOCIAL AND HEALTH  
SERVICES,

Respondent.

FINDINGS OF FACT, CONCLUSIONS OF  
LAW AND ORDER OF THE BOARD

)

## I. INTRODUCTION

1.1 **Hearing.** These appeals came on for a consolidated hearing before the Personnel Appeals Board, WALTER T. HUBBARD, Chair, and GERALD L. MORGEN, Vice Chair. The hearing was held on June 11 and 12, 2000, in Room A and B of the Therapy Activities Building at Eastern State Hospital in Medical Lake, Washington. LEANA D. LAMB, Member, did not participate in the hearing or in the decision in these matters.

1.2 **Appearances.** Appellants were represented by Paul Drachler, Attorney at Law of Theiler, Douglas, Drachler and McKee, L.L.P. Respondent Department of Social and Health Services was represented by Donna J. Stambaugh and Patricia A. Thompson, Assistant Attorneys General.

1.3 **Nature of Appeals.** These are appeals from the disciplinary sanctions of reductions in salary for neglect of duty, insubordination and willful violation of published agency policy. In addition, four of the Appellants were charged with gross misconduct. Respondent alleges that Appellants failed to report to work on September 15, 1998, failed to have their absences for that date pre-approved and pre-authorized, disregarded the Chief Executive Officer's written directive to have their absences pre-approved and pre-authorized, and failed to call in their absences at the beginning of their work shifts.

1.4 **Citations Discussed.** WAC 358-30-170; WAC 356-42-050; WAC 356-43-055; Baker v. Dep't of Corrections, PAB No. D82-084 (1983); McCurdy v. Dep't of Social & Health Services, PAB No. D86-119 (1987); Countryman v. Dep't of Social and Health Services, PAB No. D94-025 (1995); Rainwater v. School for the Deaf, PAB No. D89-004 (1989); Skaalheim v. Dep't of Social & Health Services, PAB No. D93-053 (1994); Holladay v. Dep't of Veteran's Affairs, PAB No. D91-084 (1992); Aquino v. University of Washington, PAB No. D93-163 (1995).

## II. FINDINGS OF FACT

2.1 Appellants Joseph Adams, Soni Brazzle, Julie Carlberg, Robert Cramer, Pamela Esch, Matt Hancock Jr., Maureen Hanna, Darcy Hildebrand, Elizabeth Holmes, Connie Lindsey, Joyce Mann, Edna Mantha, Andrea Miller, Bonnie Murray, Larae Murray, Cleo Powell, Stella Raulston, Mary Joan Reuthinger, Christopher Schanz, Elaine Schoenrock, Susan Skimming, Frances Stewart, Bobbi Thomas, and Tamara Yarbrough were Registered Nurse (RN) 2s and permanent employees of Respondent Department of Social and Health Services (DSHS) at Eastern State Hospital (ESH). Appellants Linette Buchfink, Frank Coyle, Lisa Dimico, Clifford Grindley, Carol Kottwitz, and Judith Walker were RN 3s and permanent employees of Respondent at ESH. Appellants Jane Beaven and Jo Kelly were Clinical Nurse Specialists (CNS) and permanent employees of Respondent at ESH. Appellants and Respondent are subject to Chapters 41.06 and 41.64 RCW and the rules promulgated thereunder, Titles 356 and 358 WAC. Appellants Grindley and Walker filed timely appeals on February 11, 2000. Appellants Adams, Beaven, Buchfink, Brazzle, Carlberg, Coyle, Cramer, Dimico, Esch, Hancock, Hanna, Hildebrand, Holmes, Kelly, Kottwitz, Lindsey, Mann, Mantha, Miller, B. Murray, L. Murray, Powell, Raulston, Reuthinger, Schanz, Skimming, Thomas, and Yarbrough and filed timely appeals on February 26, 2000. Appellants Schoenrock and Stewart filed timely appeals on March 1, 2000.

2.2 At the outset of the hearing on the merits of the appeals, the parties provided the Board with Stipulated Facts. The Board hereby adopts the parties' stipulation of facts and finds as follows:

2.3 On September 1, 1998, C. Jan Gregg, Chief Executive Officer of ESH received a letter from Diane Sosne, President of District 1199 NW, SEIU, notifying Ms. Gregg of the following:

- On September 15, 1998, the RNs at ESH represented by District 1199 NW, SEIU would be assembling at Governor Gary Locke's office in Olympia to petition the Governor for redress of their scheduling grievance.

- Nurses would also be rallying to exercise their constitutional rights of freedom of speech, petition and assembly.
- On September 15, 1998, night shift nurses would conclude their shifts at 7:00 a.m. and day shift nurses would not be reporting for work beginning at 6:45 a.m.
- ESH bargaining unit nurses would be returning to work their scheduled shifts at 6:45 a.m. on September 16, 1998.

2.4 On September 1, 1998, Ms. Gregg wrote a reply letter to Ms. Sosne. Ms Gregg's letter:

- Acknowledged Ms. Sosne's notification of September 1, 1998 that ESH registered nurses would take their scheduling grievance to Governor Locke on September 15, 1998 and restated the dates and times in Ms. Sosne's letter that the nurses would or would not be working.
- Notified Ms. Sosne that:
  - On September 15, 1998, previously authorized/approved annual leave or scheduled days off for RNs would be honored by the hospital;
  - RNs asking for annual leave on September 15, 1998 would be given authorized leave in accordance with ESH policies and procedures up to a staffing level that met the needs of ESH patients based on hospital census and overall patient acuity; and
  - RNs absent on September 15, 1998 without approved leave would be considered to be on unauthorized leave without pay which may be cause for disciplinary action.

2.5 On September 1, 1998 Ms. Gregg wrote a memo to All Registered Nurses at ESH. Ms. Gregg's memo:

- 1       • Acknowledged the notification by Ms. Sosne dated September 1, 1998 and  
2       restated the dates and times in her letter that the nurses would or would not be  
3       working.
- 4       • Notified the RNs that:
  - 5           ▪ On September 15, 1998, previously authorized/approved annual leave or  
6           scheduled days off for RNs would be honored by the hospital;
  - 7           ▪ RNs asking for annual leave on September 15, 1998 would be given  
8           authorized leave in accordance with ESH policies and procedures up to a  
9           staffing level that met the needs of ESH patients based on hospital census  
10          and overall patient acuity;
  - 11          ▪ RNs absent on September 15, 1998 without approved leave would be  
12          considered to be on unauthorized leave without pay which may be cause  
13          for disciplinary action;
  - 14          ▪ Night shift staff who left without coverage in the morning may also be  
15          disciplined; and
  - 16          ▪ Medical verification would be asked of all registered nurses suspected of  
17          abusing sick leave.

18       2.6     All Appellants did not report for work at ESH on September 15, 1998 as  
19       scheduled.

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21       2.7     All Appellants did not have their absence on September 15, 1998 pre-  
22       approved or pre-authorized.

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24       2.8     All Appellants received by personal service a disciplinary letter (the subject  
25       of these appeals) from C. Jan Gregg dated January 12, 1999.

1           2.9     All Appellants had a copy of, or had access to, ESH Nursing Department  
2           Procedure 100.08.

3           2.10    ESH Nursing Department Procedure 100.08 sets forth the procedure for reporting  
4           unscheduled leave and requires employees to contact the unit staffing coordinator when the need for  
5           unscheduled leave arises. The procedure also addresses unscheduled leave (late arrivals, sick leave,  
6           or emergency annual leave) and addresses the procedure for submitting leave slips upon the  
7           employee's return to work.

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9           2.11    On September 23, 1998, representatives of the union and of management attended a meeting  
10          in Olympia, Washington, to negotiate a settlement to the scheduling grievance. During the meeting,  
11          the parties entered into compromised agreement of the scheduling dispute. The agreement did not  
12          address Appellant's September 15, 1998 unauthorized absences.

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14          2.12    On September 25, 1998, the nurses were served with Personal Conduct Reports (PCR).  
15          Based on the results of the PCR investigations, Ms. Gregg determined that Appellants engaged in  
16          misconduct and that discipline was appropriate.

17          2.13    By letters dated January 12, 1999, Ms. Gregg informed Appellants of their reductions in  
18          salaries as follows:

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20          *GROUP 1 (RNs 2)*

- 21               • Appellants Adams, Carlberg, Cramer, Hancock, Mantha, Powell, Schanz, Schoenrock, and  
22               Skimming, were given two-step salary reductions for one month. Ms. Gregg charged  
23               Appellants with neglect of duty, insubordination and willful violation of policy. Appellants  
24               were disciplined for failing to report to work as scheduled on September 15, 1998, for  
25               failing to have their absences for that date pre-approved and pre-authorized, and for failing  
26               to notify their supervisors of their absences at the beginning of their work shifts.

- Appellants Brazzle, Hanna, Hildebrand, Holmes, and Mann, were given two-step salary reductions for one month. Ms. Gregg charged Appellants with neglect of duty, insubordination and willful violation of policy. Appellants were disciplined for failing to report to work as scheduled on September 15, 1998, and for failing to have their absences for that date pre-approved and pre-authorized.
- Appellant B. Murray, a less than full-time employee, was given a reduction from Range 45N Step P to Range 45N Step N for two months. Ms. Gregg charged her with neglect of duty, insubordination and willful violation of policy. Appellant was disciplined for failing to report to work as scheduled on September 15, 1998, and for failing to have her absence for that date pre-approved and pre-authorized.

*GROUP 2 (RNs 2)*

- Appellants Esch, L. Murray, Raulston, Reuthinger, Stewart, and Yarbrough were given four-step salary reductions for one month. Ms. Gregg charged Appellants with neglect of duty, insubordination and willful violation of policy. Appellants were disciplined for failing to report to work as scheduled on September 15, 1998, for failing to have their absences for that date pre-approved and pre-authorized, and for failing to notify their supervisors of their absences at the beginning of their work shifts.
- Appellant Lindsey was given a four-step salary reduction for one month. Ms. Gregg charged her with neglect of duty, insubordination, gross misconduct and willful violation of policy. Appellant Lindsey was disciplined for failing to report to work as scheduled on September 15, 1998, for failing to have her absence for that date pre-approved and pre-authorized, and for reporting that she was absent from work due to personal illness but failing to provide appropriate medical verification for her absence.
- Appellants Miller and Thomas were given four-step salary reductions for one month. Ms. Gregg charged Appellants with neglect of duty, insubordination, gross misconduct and

1 willful violation of policy. Appellants were disciplined for failing to report to work as  
2 scheduled on September 15, 1998, for failing to have their absences for that date pre-  
3 approved and pre-authorized, for being absent after having permission for leave denied, and  
4 for failing to notify their supervisors of their absences at the beginning of their work shifts.

5 *GROUP 3 (RNs 3)*

- 6 • Appellants Buchfink, Coyle, Grindley, and Walker were given four-step salary reductions  
7 for one month. Ms. Gregg charged Appellants with neglect of duty, insubordination and  
8 willful violation of policy. Appellants were disciplined for failing to report to work as  
9 scheduled on September 15, 1998, for failing to have their absences for that date pre-  
10 approved and pre-authorized, and for failing to notify their supervisors of their absences at  
11 the beginning of their work shifts.
- 12 • Appellant Kottwitz was given a four-step salary reduction for one month. Ms. Gregg  
13 charged her with neglect of duty, insubordination and willful violation of policy. Appellant  
14 was disciplined for failing to report to work as scheduled on September 15, 1998, and for  
15 failing to have her absence for that date pre-approved and pre-authorized.
- 16 • Appellant Dimico was given a four-step salary reduction for one month. Ms. Gregg charged  
17 her with neglect of duty, insubordination, gross misconduct and willful violation of policy.  
18 Appellant was disciplined for failing to report to work as scheduled on September 15, 1998,  
19 for failing to have her absence for that date pre-approved and pre-authorized, and for  
20 reporting that she was absent from work due to personal illness but failing to provide  
21 appropriate medical verification for her absence.

22 *GROUP 4 (CNS)*

- 23 • Appellants Beaven and Kelly were given four-step salary reductions for one month. Ms.  
24 Gregg charged Appellants with neglect of duty, insubordination and willful violation of  
25 policy. Appellants were disciplined for failing to report to work as scheduled on September  
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1 15, 1998, for failing to have their absences for that date pre-approved and pre-authorized,  
2 and for failing to notify their supervisors of their absences at the beginning of their work  
3 shifts.

4 2.14 Ms. Gregg determined that Appellants were insubordinate when they knowingly violated the  
5 directive she gave them in her September 1, 1998 memo, that they knowingly violated agency  
6 policy for reporting absences. and that they neglected their duty to report to work as scheduled.  
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8 2.15 In determining the level of discipline, Ms. Gregg considered the potential adverse impact of  
9 Appellants' absences on the patients and staff of ESH. Although the nurses had given her notice of  
10 their impending absences, Ms. Gregg had no way of knowing for sure who would and who would  
11 not be reporting for work. Therefore, she made arrangements for contract nurses to work at ESH on  
12 September 15 which cost the facility \$42,000 for the day. Ms. Gregg determined that the use of  
13 contract nurses caused a disruption in the continuity of care for the patients at ESH because the  
14 contract nurses did not have the level of familiarity with the patients as the regularly assigned ESH  
15 nursing staff. In addition, Ms. Gregg reviewed the personnel history of each of the Appellants.  
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17 2.16 *GROUP 1:* Ms. Gregg concluded that a two-step reduction in salary was appropriate for the  
18 nurses in this group because they had no prior history of misconduct or attendance issues in their  
19 personnel files.

20 2.17 *GROUP 2:* Ms. Gregg concluded that a four-step reduction in salary was appropriate for the  
21 nurses in Group 2 because their performance evaluations prior to September 15 made mention of a  
22 need for improvement in their use of unscheduled absences. Appellants in Group 2 had no history  
23 of informal or formal discipline for unauthorized absences.  
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25 2.18 *GROUP 3:* Ms. Gregg concluded that a four-step reduction in salary was appropriate for the  
26 nurses in this group because they were supervisors and were members of the patients' treatment

1 team. Ms. Gregg felt that as supervisors, these nurses were responsible for setting an example for  
2 subordinate staff and for enforcing agency policy, had a greater level of responsibility for providing  
3 patient care than their subordinates, and were responsible for providing clinical direction.

4 2.19 *GROUP 4:* Ms. Gregg concluded that a four-step reduction in salary was appropriate for the  
5 nurses in this group because although Clinical Nurse Specialists are not supervisors, ESH staff rely  
6 on their clinical expertise and ability to provide clinical direction to other staff. These nurses are  
7 consultants to other staff on a daily basis and as such, Ms. Gregg felt that they had a greater level of  
8 responsibility and accountability.

### 10 **III. ARGUMENTS OF THE PARTIES**

11 3.1 Respondent argues that these appeals are about the disciplinary actions taken against  
12 Appellants and are not about a scheduling dispute or an alleged violation of the Collective  
13 Bargaining Agreement. Respondent further argues that the notice from the union of the "job action"  
14 did not mitigate Appellants' responsibility to the agency and to the patients at ESH. Respondent  
15 asserts that Appellants were not prohibited from participating in the "job action," but knew they  
16 could be subject to discipline if they failed to report for work and failed to have their absences pre-  
17 approved or pre-authorized. Respondent contends that the agency has a right to expect employees  
18 to report to work and that it was not appropriate for Appellants to unilaterally decide not to report  
19 for work on September 15, 1998. Respondent asserts that Appellants were not disciplined for  
20 taking a "job action" but rather were disciplined for their undisputed insubordination, willful  
21 violation of policy and directives, and neglect of duty. Respondent contends that Appellants'  
22 actions were a deliberate, calculated, blatant, and showed callous disregard for the patients at ESH  
23 and for the directives given by management. Respondent asserts that Appellants' actions were an  
24 attempt to strong arm management, that such actions should not be condoned, and that the  
25 disciplinary sanctions should be affirmed.

1 3.2 Appellants argue that there is no explicit statutory or Collective Bargaining Agreement  
2 provision that prohibits the right to strike. Therefore, Appellants assert that they should not be  
3 subjected to discipline for their participation in the "job action." Appellants further argue that there  
4 was a direct connection between the "job action" and the subsequent resolution of their two-year  
5 scheduling dispute with ESH and they should not be disciplined for seeking a resolution to the  
6 dispute. Appellants contend that the union went to extraordinary lengths to provide the agency with  
7 advanced notice of their absences so that there would be no impact to the patients at ESH and that  
8 management had the means to determine who was not going to report for work prior to September  
9 15 if it chose to do so. Appellants further contend that the ESH patients were not adversely  
10 impacted and that the staffing needs of the hospital were covered. Appellants state that Respondent  
11 initiated PCRs against them two days after the union and the agency reached a compromise  
12 agreement on the scheduling issue and argue that the timing of the PCRs was counter to the  
13 discussions at the settlement meeting about putting the scheduling dispute behind the parties and  
14 moving forward in a positive way. Appellants argue that they had expected to lose a day of pay for  
15 the shift they missed on September 15. However, Appellants contend that the additional reductions  
16 in pay were not warranted and were based solely on the fact that they were acting in concert, in  
17 support of a collective bargaining issue and in exercising their basic Constitutional rights of  
18 assemblage, to petition the government for redress of grievances and to speak freely. Appellants  
19 contend that the penalty imposed upon them far exceeds the bounds of reasonableness and that the  
20 context and nature of their conduct dictates dismissal of the discipline.

#### 21 **IV. CONCLUSIONS OF LAW**

22 4.1 The Personnel Appeals Board has jurisdiction over the parties hereto and the subject matter  
23 herein.

24 4.2 In a hearing on appeal from a disciplinary action, Respondent has the burden of supporting  
25 the charges upon which the action was initiated by proving by a preponderance of the credible  
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1 evidence that Appellant committed the offenses set forth in the disciplinary letter and that the  
2 sanction was appropriate under the facts and circumstances. WAC 358-30-170; Baker v. Dep't of  
3 Corrections, PAB No. D82-084 (1983).

4 4.3 The Personnel Appeals Board is not the proper forum for resolving a dispute under the  
5 provisions of a Collective Bargaining Agreement (CBA). The Washington Personnel Resources  
6 Board has jurisdiction to hear grievances of alleged violations of Collective Bargaining Agreements  
7 (See WAC 356-42-050 and WAC 356-43-055). Appellants' avenue for enforcement of the  
8 provisions of the CBA is through the grievance process. Furthermore, there is no credible evidence  
9 that the compromised agreement to the scheduling dispute included amnesty from disciplinary  
10 action for acts of misconduct. The issue before the Board is whether Appellants' conduct on and  
11 around their September 15, 1998 absences from work constituted misconduct and whether the  
12 discipline imposed by Respondent was warranted.

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14 4.4 Neglect of duty is established when it is shown that an employee has a duty to his or her  
15 employer and that he or she failed to act in a manner consistent with that duty. McCurdy v. Dep't  
16 of Social & Health Services, PAB No. D86-119 (1987).

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18 4.5 Insubordination is the refusal to comply with a lawful order or directive given by a superior  
19 and is defined as not submitting to authority, willful disrespect or disobedience. Countryman v.  
20 Dep't of Social and Health Services, PAB No. D94-025 (1995).

21 4.6 Gross misconduct is flagrant misbehavior which adversely affects the agency's ability to  
22 carry out its functions. Rainwater v. School for the Deaf, PAB No. D89-004 (1989).

23 4.7 Willful violation of published employing agency or institution or Personnel Resources  
24 Board rules or regulations is established by facts showing the existence and publication of the rules  
25 or regulations, Appellant's knowledge of the rules or regulations, and failure to comply with the  
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1 rules or regulations. A willful violation presumes a deliberate act. Skaalheim v. Dep't of Social &  
2 Health Services, PAB No. D93-053 (1994).

3 4.8 In determining whether a sanction imposed is appropriate, consideration must be given to  
4 the facts and circumstances including the seriousness and circumstances of the offense. The penalty  
5 should not be disturbed unless it is too severe. The sanction imposed should be sufficient to prevent  
6 recurrence, to deter others from similar misconduct, and to maintain the integrity of the program.  
7 An action does not necessarily fail if one charge is not sustained unless the entire action depends on  
8 the unproven charge. Holladay v. Dep't of Veteran's Affairs, PAB No. D91-084 (1992).

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10 4.9 Respondent has met its burden of proof that all the Appellants neglected their duty to report  
11 to work and to have their absences for September 15, 1998 pre-approved and pre-authorized; that  
12 all the Appellants were insubordinate when they knowingly failed to abide by Ms. Gregg's directive  
13 regarding requesting and reporting leave; and that all the Appellants willfully violated agency  
14 policy regarding use of unscheduled leave. There is no evidence that Appellants were prohibited  
15 from exercising their basic Constitutional rights of assemblage, to petition the government for  
16 redress of grievance and to speak freely. However, Appellants' exercise of their rights does not  
17 mitigate their actions or excuse their calculated, blatant and deliberate acts of misconduct.  
18 Respondent has proven that discipline is appropriate and that the minimum sanction imposed should  
19 be equivalent to a one-month two-step reduction in salary.

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21 4.10 *GROUP 1:* The appeals of Joseph Adams, Soni Brazzle, Julie Carlberg, Robert Cramer,  
22 Matt Hancock, Jr., Maureen Hanna, Darcy Hildebrand, Elizabeth Holmes, Joyce Mann, Edna  
23 Mantha, Bonnie Murray, Cleo Powell, Christopher Schanz, Elaine Schoenrock, Susan Skimming  
24 should be denied.

1 4.11 Although it is not appropriate to initiate discipline based on prior formal and informal  
2 disciplinary actions, including letters of reprimand, it is appropriate to consider them regarding the  
3 level of the sanction which should be imposed here. Aquino v. University of Washington, PAB No.  
4 D93-163 (1995).

5 4.12 *GROUP 2:* Respondent has failed to prove that a one month, four-step reduction is the  
6 appropriate sanction. There is no evidence that any of their prior unscheduled leave was  
7 unapproved and there is no evidence that any of the nurses were given informal or formal  
8 discipline for their use of unscheduled leave. Therefore, their appeals (Pamela Esch, Larae Murray,  
9 Stella Raulston, Mary Joan Reuthinger, Frances Stewart, and Tamara Yarbrough) should be  
10 modified to one-month, two-step reductions in salary.  
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12 4.13 Respondent has failed to meet its burden of proving that a one month, four-step salary  
13 reduction is appropriate for Appellants Lindsey, Miller and Thomas. Ms. Lindsey's action of  
14 reporting that she was absent from work due to personal illness but then failing to provide  
15 appropriate medical verification for her absence is a serious act of insubordination and warrants a  
16 higher level of discipline. In addition, Ms. Miller's and Ms. Thomas's actions of requesting leave,  
17 having their requests denied and then taking the absence despite the denial of their leave requests  
18 are egregious acts of insubordination and also warrant a higher level of discipline. However, under  
19 the totality of the proven facts and circumstances of this case, we conclude that a less severe  
20 disciplinary sanction is sufficient to prevent recurrence, deter others from similar misconduct, and  
21 maintain the integrity of the program. Therefore, the appeals of Connie Lindsey, Andrea Miller,  
22 and Bobbi Thomas should be modified to one-month, three-step reductions in salary.  
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24 4.14 *GROUP 3:* Respondent has failed to meet its burden of proving that a one month, four-step  
25 salary reduction is appropriate for Appellants Buchfink, Coyle, Grindley, Kottwitz, and Walker.  
26 We agree with Respondent that as supervisors, they have a higher level of responsibility and

1 accountability, are expected to set an example for subordinate employees, are expected to enforce  
2 agency policy, and that the disciplinary sanction imposed should be more severe than the sanction  
3 imposed on their subordinates. However, under the totality of the proven facts and circumstances  
4 of this case, a four-step reduction is too severe and a lesser sanction is sufficient to prevent  
5 recurrence, deter others from similar misconduct, and maintain the integrity of the program.  
6 Therefore, the appeals of Linette Buchfink, Frank Coyle, Clifford Grindley, Carol Kottwitz, and  
7 Judith Walker should be modified to one-month three-step reductions in salary.

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9 4.15 Respondent has met its burden of proving that a one-month, four-step reduction in salary is  
10 appropriate for Appellant Dimico. In addition to her misconduct as a supervisor, Ms. Dimico's  
11 action of reporting that she was absent from work due to personal illness but failing to provide  
12 appropriate medical verification for her absence is an egregious act of insubordination and warrants  
13 a higher level of discipline. Therefore, the appeal of Lisa Dimico should be denied.

14 4.16 *GROUP 4:* Respondent has failed to meet its burden of proving that a one-month, four-step  
15 salary reduction is appropriate for Appellants Beaven and Kelly. These Appellants did not have  
16 supervisory responsibility and were not responsible for enforcing agency policy to the degree  
17 anticipated of a supervisor. Therefore, Appellants' disciplinary sanction should be equal to Group 1  
18 and their appeals should be modified to one-month, two-step reductions in salary.

## 19 20 **V. ORDER**

21 NOW, THEREFORE, IT IS HEREBY ORDERED that:

- 22 • The appeals of Joseph Adams, Soni Brazzle, Julie Carlberg, Robert Cramer, Lisa Dimico,  
23 Matt Hancock, Jr., Maureen Hanna, Darcy Hildebrand, Elizabeth Holmes, Joyce Mann,  
24 Edna Mantha, Bonnie Murray, Cleo Powell, Christopher Schanz, Elaine Schoenrock, Susan  
25 Skimming are denied.

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- The appeals of Jane Beaven, Pamela Esch, Jo Kelly, Larae Murray, Stella Raulston, Mary Joan Reuthinger, Frances Stewart, and Tamara Yarbrough are each modified to a one-month, two-step reduction in salary.
- The appeals of Linette Buchfink, Frank Coyle, Clifford Grindley, Carol Kottwitz, Connie Lindsey, Andrea Miller, Bobbi Thomas, and Judith Walker are each modified to a one-month, three-step reduction in salary.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2000.

WASHINGTON STATE PERSONNEL APPEALS BOARD

\_\_\_\_\_  
Walter T. Hubbard, Chair

\_\_\_\_\_  
Gerald L. Morgen, Vice Chair